

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

DRAE BROADNAX,

Defendant.

ORDER

04-cr-139-bbc

On July 18, 2008, I denied defendant Drae Broadnax's motion under 18 U.S.C. § 3582 for a modification of the sentence imposed on him on January 13, 2005. Three days later, defendant filed a "response" to the government's objection to the motion. Now he has filed a motion for reconsideration of the order denying his motion.

Defendant contends that the court erred in denying him a sentence modification on the ground that his sentence was determined by his career offender status and not by the quantity of cocaine base for which he was held responsible. Defendant's argument is that, because he sought a downward departure under U.S.S.G. § 4A1.3 at sentencing and because the sentence imposed on him was eight months less than the low end of the applicable guidelines range, 188 to 235 months, he was not sentenced as a career offender.

Defendant's argument is creative but ultimately unconvincing. The fact is that the career offender guidelines were the starting point for my determination of his sentence. In choosing to impose a sentence slightly below those guidelines, I was not rejecting the career offender guidelines or finding them inapplicable to defendant but merely giving defendant a modest break from the guideline sentence. I did not make or intend to make any finding under U.S.S.G. § 4A1.3 that a downward departure was necessary because defendant's criminal history category substantially over-represented the seriousness of defendant's criminal history.

ORDER

IT IS ORDERED that defendant Drae Broadnax's motion for reconsideration of the order denying his § 3582 motion for a sentence modification, dkt. #29, is DENIED.

Entered this 1st day of August, 2008.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge